

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **December 13, 2005**

AGENDA ITEM NO.: 10

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Adoption of Procurement Ordinance**

RECOMMENDATION: Adopt an ordinance to amend and reenact the Code of the City of Lynchburg, 1981, by adding a new chapter containing sections numbered 18.1-1 through 18.1-14 relating to City Contracts and Procurement.

SUMMARY: City Code sections relating to contracts and procurement need to be updated to follow changes in the Virginia Public Procurement Act and also changes in the Division of Procurement's policies and procedures thus becoming outdated. The proposed ordinance will provide consistency with the Virginia Public Procurement Act and allow City Procurement staff the statutes to legally and ethically procure goods and services for the City of Lynchburg in the most competitive manner.

PRIOR ACTION(S): None

FISCAL IMPACT: None

CONTACT(S): Donna S. Witt, Assistant Director of Financial Services, 455-3968  
Eloise Bowling, Senior Buyer, 455-3961  
Stephanie Suter, Buyer, 455-3963

ATTACHMENT(S): Ordinance and City Code Section 18.1-1 through 18.1-14

REVIEWED BY: lkp

## ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW CHAPTER CONTAINING SECTIONS NUMBERED 18.1-1 THROUGH 18.1-14, RELATING TO CITY CONTRACTS AND PROCUREMENT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto Chapter 18.1, containing Sections 18.1-1 through 18.1-14 as follows:

### **CHAPTER 18.1**

#### **CITY CONTRACTS AND PROCUREMENTS**

##### **Sec. 18.1-1. Title, purposes.**

(a) This ordinance may be cited as the Lynchburg public procurement code.

(b) The purposes of this ordinance are (i) to prescribe how the city is to conduct procurements from nongovernmental sources; (ii) to prescribe policies and procedures based on competitive principles generally applicable to the city's procurement of goods and services that the city adopts as alternatives to certain provisions of the Virginia public procurement act, as allowed by Va. Code § 2.2-4343; and (iii) to adopt and supplement other provisions of the Virginia public procurement act.

##### **Sec. 18.1-2. Definitions.**

(a) The definitions contained in the Virginia public procurement act, including without limitation, those at Va. Code §2.2-4301, apply to this Lynchburg public procurement code.

(b) In addition to the definitions contained in the Virginia public procurement act, the following definitions apply to this Lynchburg public procurement code:

(1) "Business day" means a day that the city of Lynchburg government offices are officially open for business.

(2) "City manager" means the city manager of the city of Lynchburg or his designee(s), and, if the city manager is absent or unable to carry out his duties, the person acting as city manager during such period of absence or incapacity.

(3) "City attorney" means the city attorney of the city of Lynchburg or his designee(s), and if the city attorney is absent or unable to carry out his duties, the person acting as city attorney during such period of absence or incapacity.

(4) "Claim" means a demand or assertion by a contractor seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time, or other relief with respect to the terms of a contract with the city. "Claim" also includes other disputes and matters in question between the contractor and the city arising out of, or relating to, a contract between the contractor and the city.

(5) "Contractor" means the person entering into a contract with the city, as well as any successor, authorized assign, surety, or insurance company claiming contractor's rights through contractor's privity of contract with the city. "contractor" does not include subcontractors, vendors, suppliers, or lower tier subcontractors lacking privity of contract with the city.

(6) "Day" means calendar day unless otherwise indicated.

(7) "Lynchburg PPTA/PPEA procedures" means the city of Lynchburg implementation procedures and guidelines for the public-private transportation act of 1995 and the public-private education facilities and infrastructure act of 2002.

(8) "Occurrence" means when a condition is encountered by a contractor that may result in a claim by the contractor against the city. In construction, an "occurrence" is a condition encountered as a project progresses (including without limitation, a differing site condition, alleged delay in, or interference with, contractor's performance by the city or its architect, engineer, or consultant or alleged errors or omissions in plans or specifications) that the contractor contends would entitle it to a change in the contract's price, schedule, or manner of performance, and an occurrence would not be a later dispute about payment for such a condition.

(9) "Procurement administrator" means the procurement administrator for the city of Lynchburg or his designee(s), and, if the procurement administrator is absent or unable to carry out his duties, the person acting as procurement administrator during such period of absence or incapacity.

#### **Sec. 18.1-3. Methods of city procurement, nongovernmental services.**

Unless otherwise authorized by law and approved by the city manager and city attorney, all procurement by the city from nongovernmental sources shall be conducted (1) pursuant to this Lynchburg public procurement code; (2) pursuant to the Virginia public-private transportation act of 1995 ("PPTA") and the Lynchburg PPTA/PPEA procedures for projects within the PPTA's and the Lynchburg PPTA/PPEA procedures' scope, if the city manager so directs; or (3) pursuant to the Virginia public-private education facilities and infrastructure act of 2002 ("PPEA") and the Lynchburg PPTA/PPEA procedures for projects within the PPEA's and Lynchburg PPTA/PPEA procedures' scope, if the city manager so directs. Procurements conducted pursuant to the PPTA or PPEA and the Lynchburg PPTA/PPEA procedures are not subject to the Lynchburg public procurement code or any provision thereof except to the extent such provision is expressly made applicable by the Lynchburg PPTA/PPEA procedures.

#### **Sec. 18.1-4. Provisions of Virginia public procurement act that are and are not part of the Lynchburg public procurement code.**

(a) All provisions of the Virginia public procurement act shall be a part of the Lynchburg public procurement code except the following: Va. Code § 2.2-4303.G., Va. Code § 2.2-4359 through § 2.2-4363, Va. Code § 2.2-4364 A, C, E, and F, and Va. Code § 2.2-4365 through § 2.2-4366.

(b) In lieu of Va. Code § 2.2-4359 and those portions of Va. Code §§ 2.2-4364 to 4365 and § 2.2-4360 referenced in Va. Code § 2.2-4359, the city has adopted the alternative policies and procedures at Sec. 18.1-5.

(c) In lieu of Va. Code § 2.2-4360 through § 2.2-4363, Va. Code § 2.2-4364 A, C, E, and F, and Va. Code § 2.2 -4365 through §2.2-4366, the city has adopted the alternative policies and procedures at Secs. 18.1-6 and 18.1-7.

(d) In lieu of Va. Code § 2.2-4303.G., the city has adopted the alternative policies and procedures at Sec. 18.1-8.

**Sec. 18.1-5. Alternative policies on determination of non-responsibility in lieu of Va. Code § 2.2-4359 and portions of Va. code §§ 2.2-4360, 4364, and 4365.**

The following contains the exclusive procedures a bidder may use to protest a determination by the city that the bidder is not responsible:

(a) Following the public opening and announcement of bids received on an Invitation to bid, the city shall evaluate the bids in accordance with element 4 of the definition of "competitive sealed bidding" in Va. Code § 2.2-4301. Following bid opening, the city also shall determine whether the apparent low bidder is responsible. If the city so determines, then it may proceed with an award in accordance with element 5 of the definition of "competitive sealed bidding" in § 2.2-4301. If the city determines that the apparent low bidder is not responsible, it shall proceed as follows:

(1) The city first shall (i) notify the apparent low bidder in writing of its determination, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five (5) business days after receipt of the notice.

(2) Within ten (10) business days after receipt of the notice, the bidder may submit rebuttal information challenging the city's determination. If bidder fails to submit rebuttal information to the city within ten (10) business days after receipt of the notice, the city may make its final determination without considering rebuttal information. Unless the city and bidder agree otherwise, within fifteen (15) days after the city has provided the notice to bidder, the city shall issue its final written determination of responsibility based on all information in the city's possession, including any rebuttal information timely received from the bidder. At the same time, the city shall notify, with return receipt requested, the bidder in writing of its final determination.

(3) Notice of the city's final determination shall state the basis for the determination, which shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the notice by instituting legal action in Lynchburg circuit court, Lynchburg, Virginia, and by serving the city with the action within that time.

(4) Notwithstanding the existence of information from which the city could determine the bidder not to be responsible, the bidder may offer the city additional assurances of responsible performance if it were to be awarded the contract, either pending the city's final written determination of whether bidder is responsible or during pendency of any appeal of a final determination of the bidder's non-responsibility, which the city, in its sole discretion, may consider and accept as curing the city's concerns with bidder's apparent non-responsibility.

(b) The provisions of this Sec. 18.1-5 shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.

(c) If, upon appeal pursuant to Sec. 18.1-5 (a) 3., it is determined that the final determination of non-responsibility by the city was not (i) an honest exercise of discretion, but rather was arbitrary or capricious or (ii) in accordance with applicable state law, regulation, or the terms or conditions of the invitation to bid, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question.

(d) A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section and may not protest the award or proposed award under the provisions of Sec. 18.1-6.

(e) No bidder shall have the right to challenge the responsibility of another bidder.

(f) Nothing contained in this section shall be construed to require the city, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not selected.

**Sec. 18.1-6. Alternative policies on protests of award or decisions to award a contract in lieu of Va. code § 2.2-4360 through § 2.2-4362 and Va. code § 2.2-4364.**

(a) The following are the exclusive procedures for a bidder or offeror to protest the city's award or decision to award a contract.

(1) Any protest to award a contract shall be in writing and shall be delivered so that it is received by the city manager not later than five (5) business days after announcement of the award or decision to award, whichever comes first. Otherwise any such protest shall be deemed to be waived.

(2) Except for a protest of an emergency or sole source procurement, a protest of a city award or decision to award a contract may only be made by a person who submitted a bid or proposal for the procurement at issue and who was reasonably likely to have its proposal accepted but for the city's decision. In the case of an emergency or sole source procurement, a protest may only be made by a person who can show that he was reasonably likely to have submitted a successful bid or proposal if the procurement had been other than emergency or sole source.

(3) Protests shall only be granted if (1) the protester has complied fully with this Sec. 18.1-6 and there has been a violation of law, the Lynchburg public procurement code, or mandatory terms of the solicitation that clearly prejudiced the protestor in a material way, or (2) a statute requires voiding of the decision.

(4) The city manager shall issue a written decision on a protest within ten (10) days of its receipt by the city manager.

(5) If the protest is denied, the protestor may only appeal the denial or otherwise contest or challenge the procurement by then filing suit in the Lynchburg circuit court, Lynchburg, Virginia, and serving the city with such suit within ten (10) days of such denial. Otherwise, the city manager's decision shall be final and conclusive, and the protestor's right to appeal the denial or to otherwise contest or challenge the procurement shall be deemed to be waived.

(6) The city should defer award of a contract where the decision to award has been protested unless there is a written determination by the city manager that proceeding without delay is necessary to protect the public interest or unless the bid or offer of the prospective awardee would expire.

(7) The validity of a contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal is filed.

(8) The exclusive relief allowed if a protest is granted is to void the decision being protested. If a contract has already been awarded and performance under the contract has begun, the contract need not be voided if not in the public interest to do so. Under no circumstances will any monetary amount be allowed to the protestor as part of any relief granted.

(9) Strictly following these procedures shall be a mandatory prerequisite for protest of the city's award or decision to award a contract. Failure by a bidder to follow these procedures strictly shall preclude that bidder's protest and be deemed to constitute a waiver of any protest.

(b) A protest may not be based upon the alleged non-responsibility of a person to whom the city awards or makes a decision to award a contract.

**Sec. 18.1-7. Alternative policies on claims in lieu of Va. code § 2.2-4363, Va. code § 2.2-4364 E, and Va. code § 2.2-4365 through § 2.2-4366.**

Any claims by a contractor or anyone claiming on the contractor's behalf against the city arising under or relating to any contract between the city and the contractor shall only be resolved as follows:

(a) Initial notice, submission of claim, and consideration.

(1) The contractor shall give the city written notice of any claim within ten (10) days of the beginning of the occurrence of the event leading to the claim being made. The written notice shall be a document from the contractor addressed to the city official or employee designated by the contract to receive such notice, or if no one is so designated, to the city manager. The written notice shall clearly state the contractor's intention to make a claim, shall describe the occurrence involved, and shall be transmitted in a manner to ensure receipt by the city official or employee designated in the contract to receive such notice, or if no one is so designated, by the city manager, within the ten (10) days. The contractor shall submit the claim and any supporting data to the city within thirty (30) days after the occurrence giving rise to the claim ends. The burden shall be on the contractor to substantiate that it has given written notice and submitted its claim in accordance with this provision.

(2) The claim must be certified under oath as true and correct by a principal of contractor; must be for specific relief; if any money is sought, must specify the dollar amount sought; and must contain sufficient supporting documentation to reasonably allow its consideration, including without limitation, any documentation required by the contract. The burden shall be on the contractor to substantiate the claim.

(3) In circumstances where the terms and conditions of a contract require the contractor to submit a claim to an architect, engineer, or consultant for decision or to appeal a decision of an architect, engineer, or consultant, or to provide additional supporting documentation for its claim, the contractor shall comply with such terms and conditions in addition to these procedures. No decision by the architect, engineer, or consultant shall be binding on the city, but such decision shall have whatever effect on the contractor that the contract provides.

(4) Following consideration by the architect, engineer, or consultant, if applicable, and following initial, informal consideration by the city manager, the parties shall endeavor to resolve any claim through direct negotiations, and if such direct negotiations fail, and if the city requests, by non-binding mediation conducted pursuant to the rules of the American arbitration association, with the site of the mediation being Lynchburg, Virginia.

(5) Should the claim remain unresolved for more than sixty (60) days after it is submitted, then the city manager shall, within no later than ninety (90) days after the claim's submission, render a written decision on the claim on behalf of the city. The contractor may not institute any legal action with respect to the claim until after the city manager renders his written decision or ninety (90) days from its receipt by the city manager has passed, whichever comes first.

(b) Appeal of denial of claim.

(1) If the city denies in whole or part a claim by a contractor or more than ninety (90) days have passed since the claim was received by the city manager but no written decision has been issued, the contractor may appeal denial of the claim by instituting a lawsuit or chancery action, as appropriate, in the Lynchburg circuit court, Lynchburg, Virginia, or if the subject or amount in controversy is within its jurisdiction, the Lynchburg general district court, Lynchburg, Virginia, and may thereafter pursue all available appeals in Virginia state courts, to the extent they have jurisdiction.

(2) The contractor must initiate its appeal of the claim within one hundred eighty (180) days of the date it first has the right to do so or the claim will be barred and the city manager's decision will be binding and conclusive.

(3) The contractor may not amend its claim on appeal to increase the amount of money sought.

(c) In the event of any claim arising, contractor shall continue its performance diligently during such claim's pendency and thereafter as if no claim had arisen. During the pendency of any claim in connection with the payments of moneys, contractor shall be entitled to receive payments for non-disputed items, subject to any right of set-off by the city.

(d) These procedures and the provisions of this Lynchburg public procurement code and the contract supersede any right at common law by contractor for a claim of material breach or for rescission of such contract.

(e) Any purportedly binding arbitration provision in a contract with the city shall be void and of no effect unless the arbitration has expressly been considered and specifically approved in writing by the city manager and city attorney.

(f) No claims by a contractor for cumulative impacts of purported schedule delays may be made. Contractors must provide separate written notice and separate claims for each alleged schedule delay as it arises.

(g) These procedures shall be deemed automatically incorporated by reference into any contract entered into by the city. However, the city manager or his designee(s) should ensure this section is referenced or included in all the city's contracts.

(h) The city manager or his designee(s) may further supplement this Sec. 18.1-7 of this Lynchburg public procurement code with the terms and conditions of any contract.

(i) Complete satisfaction of this Sec. 18.1-7 is an absolute prerequisite for contractor to pursue a claim arising under or relating to the contract. Failure by contractor to satisfy any provision of this Sec. 18.1-7 shall constitute a waiver by contractor of the claim and shall preclude the contractor's further pursuit of such claim.

#### **Sec. 18.1-8. Small purchase procedures.**

Subject to such small purchase procedures as are established in the procurement manual adopted by the city manager pursuant to Sec. 18.1-12, the city manager, or those to whom he delegates authority, may enter into single or term contracts for goods and services other than professional services if the aggregate or sum of all phases is not expected to exceed fifty thousand dollars (\$50,000.00). Such small purchase procedures shall provide for reasonable competition when practicable, including, without limitation, when such small purchases are for over ten thousand dollars (\$10,000.00), use of three quotes when reasonably practicable.

#### **Sec. 18.1-9. Negotiations when all bids exceed available funds.**

(a) Unless cancelled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that, if such bid exceeds available funds, and if the city deems it appropriate to do so rather than cancel the solicitation, the city may negotiate with the lowest responsive, responsible bidder to obtain a contract price within available funds using the procedures set out in this section.

(1) If the using agency wishes to conduct negotiations pursuant to this section, it shall provide the procurement administrator with a written determination that the bid from lowest responsive, responsible bidder exceeds available funds. This determination shall be confirmed in writing by the director of finance or his designee. The using agency shall also provide the procurement administrator with suggested measures to bring the proposed purchase within budget through negotiations with the lowest responsive, responsible

bidder, including reductions in scope, changes in quality, value engineering, changes in terms and conditions, or changes in schedule.

(2) The procurement administrator shall advise the lowest responsive, responsible bidder, in writing, that the proposed purchase exceeds available funds. He shall further invite proposed measures, such as a reduction in scope, change in quality, value engineering, changes in terms or conditions, or changes in schedule for the proposed purchase, and invite the lowest responsive, responsible bidder to amend its bid based upon the proposed measures to bring the purchase within available funds.

(3) Informal discussions between the city and the lowest responsive, responsible bidder, either in person, by e-mail, by telephone, or by other means, may be used to attempt to obtain a contract within available funds.

(4) Following any successful negotiations, the lowest responsive, responsible bidder shall submit a proposed addendum to its bid, which addendum shall include the specific changes in the proposed purchase, the reduction in price, and the new contract value. The addendum shall be reviewed by the purchasing agency, the city manager, and city attorney for acceptability.

(5) If an addendum is acceptable to the city, the city may award a contract within funds available to the lowest responsive, responsible bidder based upon the amended bid proposal.

(6) If the city and the lowest responsive, responsible bidder cannot negotiate a contract within available funds, all bids shall be rejected.

(b) These procedures shall be deemed to be incorporated automatically in all invitations to bid issued by the city. However, the city manager or his designee(s) should ensure this section is set out in all invitations to bid.

#### **Sec. 18.1-10. Debarment.**

The procurement administrator, may, in the public interest, debar a prospective contractor for any of the causes in subsection (a) using the procedures in subsection (c). The existence of a cause for debarment under subsection (a), however, does not necessarily require that the contractor be debarred. The seriousness of the contractor's acts or omissions showing non-responsibility; the ability and willingness of the contractor to promptly correct them; any mitigating factors; and the public interest should be considered in making any debarment decision.

(a) Causes for debarment. The procurement administrator may debar a prospective contractor for any of the causes listed in paragraphs (1) through (3) following:

(1) Conviction of or civil judgment of the contractor or any of its principals within the last five years for:

a. commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;

b. violation of federal or state antitrust statutes;

c. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

d. commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor or subcontractor.

(2) Violation of the terms of a government contract or subcontract so serious as to justify debarment, such as:



- a. willful failure to perform in accordance with the terms of one or more contracts; or
  - b. a history of failure to perform, or of unsatisfactory performance of, one (1) or more contracts.
- (3) Any other cause of so serious or compelling a nature that it affects the contractor's present responsibility.
- (b) The procurement administrator shall establish procedures for the prompt reporting, investigation and referral of matters relating to potential contractors who should be considered for debarment appropriate for the city manager's and city attorney's consideration.
- (c) Procedures for debarment. The following procedures governing the debarment decision-making process are designed to be as informal as practicable, consistent with principles of fundamental fairness:
- (1) Debarment shall be initiated by the procurement administrator, after coordinating with the city manager and city attorney, notifying the prospective contractor by certified mail, return receipt requested, that debarment is being considered. This notice shall include:
- a. The reasons for the proposed debarment in terms sufficient to put the contractor on notice of the circumstances upon which it is based;
  - b. The procedures the contractor may take to examine evidence the city has supporting the proposed debarment;
  - c. The procedures the contractor may take to oppose the proposed debarment; and
  - d. The potential effect of the proposed debarment.
- (2) Debarment shall be for a period commensurate with the seriousness of the cause.
- (3) The prospective contractor may submit to the procurement administrator, within thirty (30) days after receipt of notice, written information and argument to the proposed debarment, including any additional specific information that raises a genuine dispute over a material fact. The prospective contractor may request a hearing in person, with counsel present, before the city manager and city attorney.
- (4) The city manager, after conferring with the city attorney, may, in his discretion, grant or deny a hearing in person with the contractor and the contractor's attorney and take such other action on the debarment as the evidence and circumstances warrant.
- (d) The city manager may, after conferring with the city attorney, temporarily suspend from consideration for award of any city contract a potential contractor whom the city notifies that it is considering for debarment if the public interest so requires. In such cases, the city manager should give expedited consideration to the debarment so as to afford the contractor as prompt a consideration of its case as is reasonably practicable.

**Sec. 18.1-11. Procedures for withdrawal of bid due to error (in implementation of Va. code §2.2-4330).**

- (a) To withdraw a bid after bid opening due to error, a bidder must satisfy the substantive requirements of Va. Code §2.2-4330. In addition, the following procedures shall apply:
- (1) The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

(2) The mistake may be proved only from the original work papers, documents and materials delivered as required herein.

(b) This section shall be deemed to be incorporated automatically into all invitations to bid issued by the city pursuant to the Lynchburg public procurement code. Nonetheless, the city manager or his designee(s) should ensure that this section is set out in all invitations to bid.

#### **Sec. 18.1-12. Adoption of procurement manual.**

The city manager is authorized to establish and adopt procedures, which may be in the form of a procurement manual, to implement and supplement the provisions of this Lynchburg public procurement code.

#### **Sec. 18.1-13. Delegations of authority and responsibilities.**

(a) Subject to the restrictions in Sec. 18.1-13(d) and (e), the city manager is delegated authority to take all actions for the city pursuant to this Lynchburg public procurement code.

(b) Subject to the restrictions in Sec. 18.1-13(c)(d) & (e) and to the procedures adopted by the city manager pursuant to Sec. 18.1-12, the city manager, city attorney, and procurement administrator may delegate any of their duties and authority they have under this Lynchburg public procurement code to other city officials and employees.

(c) The following authority may not be delegated:

(1) The authority under Sec. 18.1-3 of the city manager and city attorney to approve procurements from nongovernmental sources when such procurements are to be done other than pursuant to the Lynchburg public procurement code or the Lynchburg PPTA/PPEA procedures.

(2) The city manager's authority to approve binding arbitration pursuant to Sec. 18.1-7(e).

(3) The city manager's authority under Sec. 18.1-10(d) to take final action on a debarment.

(4) The authority given in Sec. 18.1-13(d) to approve payment for changes and claims.

(d) Provided that the change or claim will not cause total expenditures for a contract to exceed the amount budgeted for that contract, authority to approve changes and claims is delegated as follows:

(1) The city manager may approve a change or claim that increases the amount of a contract by no more than fifty thousand dollars (\$50,000.00).

(2) The procurement administrator may approve a change or claim that increases the amount of a contract by no more than fifty thousand dollars (\$50,000.00).

(3) Any city official or employee to whom the city manager has specifically delegated authority in writing may approve a change or claim that increases the amount of a contract by no more than fifty thousand dollars (\$50,000.00).

(e) Approval of changes or claims that increase a contract amount by more than fifty thousand dollars (\$50,000.00) or that will cause total expenditures for a contract to exceed the amount budgeted for that contract may only be made by the city council.

(f) The city manager may place such conditions and restrictions as he deems appropriate on the exercise of any authority granted to the procurement administrator by this Lynchburg public procurement code and on the exercise of any authority delegated to any city official or employee pursuant to this Lynchburg public procurement code.

(g) Nothing in this Sec. 18.1-13 shall be construed as granting authority to any person to incur any contract obligation on behalf of the city beyond appropriations available for that purpose.

**Sec. 18.1-14. Severability.**

If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

2. That this ordinance shall become effective upon its adoption. Contracts and purchases that were initiated prior to the adoption of this ordinance shall continue to be governed by Article VI., Division 2. Procurements, Secs. 18-150 through 18-164 of the city code.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

169L